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\*(pending approval of pro hac vice admittance)

Attorneys for Plaintiff Johnathan Talbot

## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA

Johnathan Talbot	)
Plaintiff,	) Cause No. 2:23-cv-00066-BMM
	) AFFIDAVIT UNDER ) PENALTY OF PERJURY
Manoah Ainuu, and The North Face Apparel Corp., a Delaware Company.	) ) ) )
Defendants	) )

COMMONWEALTH OF VIRGINIA	)
	)
LOUDOUN COUNTY	)

I, Nicholas R. Barry, pursuant to Rule 83.1(d)(3) of the United States District Court of Montana, being first duly sworn on oath, state as follows:

- A. I reside in the State of Tennessee and am an attorney with America First Legal Foundation, located at 611 Pennsylvania Avenue, SE, Suite 231, Washington, D.C. 20003, telephone 571-639-6711, and email: nicholas.barry@aflegal.org.
- B. With Plaintiff's Motion for Admission Pro Hac Vice, the appropriate admission fee was paid or will be paid simultaneously with the filing of this application.
- C. I am proficient in electronic filing in the United States District Court for the Middle District of Tennessee.
- D. I am admitted to practice in the bars of the United States Court of
  Appeals for the Sixth Circuit as of September 2023 and the United
  States District Court for the Middle District of Tennessee as of
  November 2014. I am also admitted to practice in the bar of the State

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of Tennessee as of November 2013. None of my admissions have been terminated.

- E. I am in good standing and eligible to practice in these courts.
- F. I am not currently suspended or disbarred in any other court.
- G. I have never been held in contempt, otherwise disciplined by any court for disobedience of its rules or orders or sanctioned under Fed. R. Civ.P. 11 or 37(b), (c), (d), (f), or their state equivalent.
- H. I have not concurrently or within the two years proceeding the date of this application made any *pro hac vice* application to this court.
- I. I fully understand that my *pro hac vice* admission in this court is personal to me only and is not admission of a law firm and that I will be held fully accountable for the conduct of the litigation in this court.
- J. I have complied with Mont. R. Prof'l Conduct 8.5. Attached as Exhibit1 is my agreement to be bound by the Mont. R. Prof'l Conduct 8.5.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17 day of November, 2023.

Nicholas R. Barry

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# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA

Johnathan Talbot	
Plaintiff,	) Cause No. 2:23-cv-00066-BMM
	) AFFIDAVIT UNDER ) PENALTY OF PERJURY ) EXHIBIT A
Manoah Ainuu, and The North Face Apparel Corp., a Delaware Company.	) ) )
Defendants	) )

### **EXHIBIT A**

I, Nicholas R. Barry, hereby certify in writing and under oath to this Court that, except as to Rules 6.1-6.4 of the Rule of Professional Conduct ("Rules"), I will be bound by these Rules in my practice of law in Montana and will be subject to the discipline authority of Montana.

A copy of this certification will be mailed, contemporaneously, to the business office of the State Bar of Montana in Helena, Montana.

Nicholas R. Barry

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Subscribed and sworn be 2023, by whose identity is kno		ay of November,
	Notary	Public
My commission expires:	My Commission Expires September 8, 2025	SHLEY HORNES